

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF VIRGINIA  
ROANOKE DIVISION**

**DONNELL S. BARNES,**  
**Plaintiff,**

**v.**

**COLLINS, et al.,**  
**Defendants.**

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**CASE NO. 7:18CV00154**

**OPINION & ORDER**

**By: Norman K. Moon**  
**Senior United States District Judge**

Plaintiff Donnell S. Barnes, a Virginia inmate proceeding pro se, has filed a civil rights action under 42 U.S.C. § 1983, alleging the defendants have violated his constitutional rights by denying him access to grievance procedures. After review of the record, I conclude the Complaint must be summarily dismissed for failure to state a cognizable § 1983 claim.<sup>1</sup>

Generally, state inmates have “no entitlement to grievance procedures or access to any such procedure voluntarily established by a state.” *Adams v. Rice*, 40 F.3d 72, 75 (4th Cir. 1994). Furthermore, “[w]hen the claim underlying the administrative grievance involves a constitutional right, the prisoner’s right to petition the government for redress *is* the right of access to the courts, which is not compromised by the prison’s refusal to entertain his grievance.” *Flick v. Alba*, 932 F.2d 728, 729 (8th Cir. 1991) (emphasis added). “Thus, if plaintiff believes that defendants’ failure to respond to grievances has resulted in injury to plaintiff’s constitutionally protected interests, plaintiff may file a claim under 42 U.S.C. § 1983 to redress that particular injury.” *Scott v. Kelly*, 107 F. Supp. 2d 706, 710 (E.D. Va. 2000).

The Complaint alleges “Defendants deprived me of my right to access to the court and my right to petition the government for redress of grievance in violation of my right to the first

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<sup>1</sup> Rule 4 of the Rules Governing Section 2254 Cases authorizes summary dismissal of a habeas corpus action if it is clear that the petitioner is not entitled to relief.

amendment to the u.s. constitution.” Cmpl. 2, Dkt. No. 1. Barnes does not allege a freestanding constitutional claim; instead, he merely alleges that his First Amendment rights were violated by the prison’s refusal to give him grievance forms. Therefore, he fails to state a cognizable claim under § 1983.

For the reasons set forth, this action, a civil rights action under 42 U.S.C. § 1983, is **DISMISSED** with prejudice for failure to state a cognizable claim.

The clerk shall close the case. Because the defendant has not made a substantial showing of the denial of a constitutional right, a certificate of appealability is **DENIED**.

It is so **ORDERED**.

**ENTER:** This 22nd day of May, 2018.

  
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NORMAN K. MOON  
SENIOR UNITED STATES DISTRICT JUDGE